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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,906	07/27/2001	W. Burnell Gates	P-4179.01(UTI)	8689

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EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916 906

Applicant(s)

Gates

Examiner

Jerome W Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-24-03
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 7-11, 13, 14, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) 1, 5, 7-11, 13, 14, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1, 5, 7-11, 13, 14, 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7-11, 13, 14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) 1, 5, 7-11, 13, 14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) 1, 5, 7-11, 13, 14, 17 and 18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 11-24-03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 11-24-03 is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. 09/916 906.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 09/916 906
- 4) ☐ Interview Summary (PTO-413) Paper No(s) 09/916 906
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: Jerome W. Donnelly

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Claims 8, 9, 10 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 7, 11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buck in view of Fisher.

Buck discloses a device manufacture of wood, said device being manufactured in three distinct sections, each distinct section having a handgrip area and enlarged first and second ends.

Buck however does not disclose his device wherein it may be separated into at least three sections each including a gripping area (2) and ends (3).

Fisher however discloses a similar device wherein it is taught that separate sections of an exercising club may be manufactured as non-integral separately removable and attachable components, connected together through a means for releaseably joining.

Given the above teachings the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the device of Buck into three sections each including a gripping section or to manufacture the device wherein it is separable into at least nine sections, six ends sections and three gripping sections, as a means to

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make the device more versatile. The examiner notes that Fisher also discloses the use of releasable joining means in the form of threaded portions on the ends of rod members and end members.

As to the device having a specific gravity of less than one the examiner reminds the applicant that the device of Buck is manufactured of wood, which floats, and therefore most wood would have a specific gravity of less than one.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck in view of Fisher and Anderson.

Buck in view of Fisher discloses the device of claim 17 substantially as claimed. Buck modified however does not disclose his device wherein its central section includes walls and separate ends.

Anderson discloses a device having side walls. Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture the central hand grip member of Buck modified of a design such as Anderson, as an obvious shape in hand grips.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number 308-2668.

Donnelly/DI

January 20, 2004